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THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Michael P. Delaney | Art Unit: 2132

Serial No.: 09/383,691 | Dkt. No.: DELM-2706

Filed: 8/26/1999 | Examiner: Lanier, Benjamin E.

Title: **PUBLICATION OF AN ATTORNEY-CLIENT PRIVILEGE WARNING MESSAGE**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

BRIEF OF APPELLANT

This Appeal Brief, pursuant to the Notice of Appeal filed January 16, 2004, is an appeal from the rejection of the Examiner dated September 9, 2003.

REAL PARTY IN INTEREST

Michael M. Delaney

RELATED APPEALS AND INTERFERENCES

None.

STATUS OF CLAIMS

Claims 1-35 are currently pending. Claims 12 and 23 would be allowable if rewritten in independent form. This Brief is in support of an appeal from the rejection of claims 1-11, 13-22,

and 24-35.

STATUS OF AMENDMENTS

There are no amendments which have not been entered.

SUMMARY OF INVENTION

The present invention discloses a data processing method and system, and a computer program product comprising computer software on a recordable medium for implementing the data processing method. A data object and a node are coupled to a server. See FIG. 1 and discussion thereof in specification, page 6, lines 4-11. The node may be an attorney node or a client node. See specification, page 7, lines 6-8. The server and the client may be in accordance with a client server-model within a distributed computing system selected from the group consisting of a world wide web of the Internet, a wide area network, and a local area network. See specification, page , line 22 - page 9, line 5.

A request may be sent from the node to the server for access of the data object by the node. A check is made for whether the requested access is security blocked. If the requested access is not security blocked, then the method determines whether the data object includes a privileged communication (PCOM) between an attorney and a client of the attorney. If the data object includes the PCOM, then the decides whether a PCOM message for the data object is to be published at the node. If the PCOM message is to be published, then the publishing the PCOM message at the node. See FIG. 5 (steps 105, 110, 130, 140, 150) and discussion thereof in specification, page 12, line1 - page 13, line 1; page 14, lines 5-7.

The data processing method may further comprise after publishing the PCOM message: deciding by a user at the node whether to abandon the request for said access; if deciding to abandon, user-abandoning the request; and if deciding not to abandon, user-electing not to abandon and enabling said access. See FIG. 5 (steps 160, 170, 180) and discussion thereof in specification, page 14, line 19 - page 15, line 9.

The data processing method may further comprise after enabling the access, user-accessing the data object including selecting from the group consisting of reading the data object, editing the data object, and combinations thereof. See FIG. 5 (step 190) and discussion thereof in specification, page 15, lines 8-10.

The step of deciding by a user to abandon the request may include selecting the user from the group consisting of the attorney and an attorney-affiliate who is authorized to access the data object. See specification, page 10, lines 10-11.

The user may not be authorized to access the data object. See specification, page 10, lines 13-14.

The attorney may provide input as to whether the data object includes the PCOM, and wherein the determining of whether the data object includes a PCOM includes a dependence on the input. It may be ascertained whether the data object includes a phrase in a search list, and wherein the determining includes a dependence on a result of said ascertaining. See specification, page 11, lines 3-8.

The publishing of the PCOM message may include visually displaying the PCOM message or articulating the PCOM message by sound. See specification, page 14, lines 13-15.

The publishing of the PCOM message may include displaying the PCOM message by

including identifying all persons authorized to access the PCOM. See specification, page 14, lines 11-13.

The deciding of whether a PCOM message for the data object is to be published at the node may include a dependence on a decision variable. The decision variable may includes a dependence on whether the PCOM message for the data object has been previously published in an executing job. The decision variable may include a dependence on whether a PCOM message for a second data object has been previously published in the executing job, wherein the second data object is coupled to the server, and wherein the second data object is privileged-linked to the first data object. See specification, page 13, lines 1-21.

The PCOM may be between, *inter alia*: a psychotherapist and a client of the psychotherapist; a physician and a patient of the physician, or a husband and a wife of the husband. See specification, page 15, lines 14-18.

ISSUES

1. Whether claims 1-10, 13-21, and 24-35 are unpatentable under 35 U.S.C. §103(a) over Theimer (U.S. Patent No. 5,649,099) in view of Rackman (U.S. Patent No. 5,903,646).

2. Whether claims 11 and 22 under are unpatentable under 35 U.S.C. §103(a) over Theimer (U.S. Patent No. 5,649,099) in view of Rackman (U.S. Patent No. 5,903,646), and further in view of Keithley (U.S. Patent No. 5,584,025).

GROUPING OF CLAIMS

The claims are grouped as shown in Table 1.

Table 1

Group	Claims	Do Claims of Group Stand or Fall Together?
1	1, 3, 16, 29	Yes
2	31, 33-35	Yes
3	2, 17, 30, 32	Yes
4	11, 22	Yes
5	3-5, 10, 14-15, 21, 25-26	Yes
6	6-9, 13, 18-20, 24, 27-28	Yes

The claims of Group 2 do not stand and fall together with the claims of Group 1, because the claims of Group 1 claim limitations relating to a privileged communication (PCOM) between an attorney and a client of the attorney, whereas none of the claims of group 2 claim any limitation relating to a PCOM between an attorney and a client of the attorney.

The claims of Group 3 do not stand and fall together with the claims of Groups 1-2, because the claims of Group 3 include an issue not present in the claims of Groups 1-2, said issue being whether Theimer in view of Rackman teach or suggest the following combination of features of claim 2 and similar features of claims 17, 30, and 32: "deciding by a user at the node whether to abandon the request for said access; if deciding to abandon, user-abandoning the request; and if deciding not to abandon, user-electing not to abandon and enabling said access".

The claims of Group 4 do not stand and fall together with the claims of Groups 1-3, because the claims of Group 4 have been rejected as being allegedly unpatentable over different references (i.e., Theimer in view of Rackman and further in view of Keithly) than the references used to reject the claims in Groups 1-3 (i.e., Theimer in view of Rackman).

The claims of Group 5 do not stand and fall together with the claims of Groups 1-4, because the claims of Group 5 were rejected over a combination of references (i.e., Theimer in view of Rackman) such that the Examiner attempted to show that the references disclosed the particular feature of each claim in Group 5 but the Examiner did not provide any reason to support the combination of references with respect to the particular feature, whereas in the claims of Groups 1-4 the Examiner provided a reason in an attempt to support the combination of references with respect to the claim's particular features.

The claims of Group 6 do not stand and fall together with the claims of Groups 1-5, because the claims of Group 6 were rejected over a combination of references (i.e., Theimer in view of Rackman) wherein the Examiner did not provide any argument to support the rejection, whereas in the claims of Groups 1-5 the Examiner provided an argument to support the rejection.

ARGUMENT

Issue 1

CLAIMS 1-10, 13-21, AND 24-35 ARE NOT UNPATENTABLE UNDER 35 U.S.C. §103(a) OVER THEIMER (U.S. PATENT NO. 5,649,099) IN VIEW OF RACKMAN (U.S. PATENT NO. 5,903,646)

The Examiner rejected claims 1-10, 13-21, and 24-35 under 35 U.S.C. §103(a) as allegedly being unpatentable over Theimer (U.S. Patent No. 5,649,099) in view of Rackman (U.S. Patent No. 5,903,646).

Claim 1

Appellant respectfully contends that claim 1 is not unpatentable over Theimer in view of Rackman, because Theimer in view of Rackman does not teach or suggest each and every feature of claim 1.

As a first example of why Theimer in view of Rackman does not teach or suggest each and every feature of claim 1, Appellant contends that neither Theimer nor Rackman teach or suggest the feature: "if the requested access is not security blocked, determining whether the data object includes a privileged communication (PCOM) between an attorney and a client of the attorney". As admitted by the Examiner, Theimer does not disclose anything about a PCOM (i.e., privileged communication) between an attorney and a client of the attorney. As to Rackman, the Examiner's has cited col. 7, lines 31-52 of Rackman which discloses that field 9 of the data record of FIG. 2 contains bits (CF1 and CF2) indicating who is to be permitted to look at a document (i.e., data object of claim 1) that is identified with the data record. The bits CF1 and CF2 do not indicate whether the document is a PCOM but rather denotes a level of

confidentiality associated with the document. The level of confidentiality reflected by the bits CF1 and CF2 is not indicative of whether the document is a PCOM. For example, the document may reflect work product rather than a privileged attorney-client communication (see Rackman, col. 1, lines 19-22). In other words, an analysis of the bits CF1 and CF2 is incapable of determining wether the document is a PCOM as required by claim 1, and is capable of only determining the level of confidentiality and associated access control to the document.

As a second example of why Theimer in view of Rackman does not teach or suggest each and every feature of claim 1, Appellant contends that neither Theimer nor Rackman teach or suggest the feature: "if the data object includes the PCOM, deciding whether a PCOM message for the data object is to be published at the node; and if the PCOM message is to be published, publishing the PCOM message at the node." As explained *supra* in conjunction with the first example, col. 7, lines 31-52 of Rackman (cited by the Examiner) discloses only the confidentiality level and access control of the document. Rackman does not disclose deciding whether to publish a PCOM message and does not publish a PCOM message. Note that a PCOM message relating to an attorney-client communication is a message that the document is a privileged attorney-client communication. An illustration of a PCOM message is presented in FIGS. 8 and 9 of Appellant's patent application. There is no disclosure in Rackman of a PCOM message and the Examiner has not presented even a single argument relating to a PCOM message and publication thereof.

As a third example of why Theimer in view of Rackman does not teach or suggest each and every feature of claim 1, Appellant contends that the Examiner's argument for modifying Theimer with Rackman's disclosure of access control to litigation documents is not persuasive.

The Examiner argues: "It would have been obvious to one of ordinary skill in the art at the time the invention was made for the permission bits in Theimer to include an confidentiality field identifying that the file contains attorney client communications in order to provide a system for the distribution of confidential documents for attorney's as taught by Rackman (Col. 1, lines 29-59)". In response to the preceding argument by the Examiner, Appellant contends that Theimer is concerned with the controlled delegation of access rights from clients to untrusted intermediaries (see Theimer's Abstract) and accomplishes this objective with access control programs (ACPs) as disclosed in Theimer's abstract and throughout the Theimer disclosure. Rackman does not disclose anything that could be used in Theimer to improve Theimer's invention, inasmuch as the ACPs, as disclosed by Theimer, does everything that needs to be done to accomplish the objectives of Theimer's invention. Additionally, Theimer has no disclosed need specifically for access control to litigation documents, and most certainly has no disclosed need specifically for publishing a PCOM message. Therefore it is not obvious to modify Theimer with the teaching of Rackman as argued by the Examiner.

Based on the preceding arguments, Appellant respectfully maintains that claim 1 is not unpatentable over Theimer in view of Rackman, and that claim 1 is in condition for allowance. Since claims 2-11 and 13-15 depend from claim 1, Appellant contends that claims 2-11 and 13-15 are likewise in condition for allowance.

Claim 2

Since claim 2 depends from claim 1, which Appellant has argued *supra* as not being unpatentable under 35. U.S.C. §103(a), Appellant maintains that claim 2 is likewise not

unpatentable under 35. U.S.C. §103(a).

In addition, Appellant contends that Theimer in view of Rackman does not teach or suggest the following combination of features of claim 2: "sending a request from the node to the server for access of the data object by the node, ... deciding by a user at the node whether to abandon the request for said access; if deciding to abandon, user-abandoning the request; and if deciding not to abandon, user-electing not to abandon and enabling said access".

Note that claim 2 requires that the request-sending node both sends the request and abandons the request.

The Examiner argues: "Theimer discloses the intermediary (node), after server verification of rights, approving of the request (deciding to abandon or complete request)(Col. 18, lines 14-39)". In response, Appellant contends that in Theimer, col. 18, lines 14-39, an intermediary node (I_i) sends the request to the server S and if the request is to be abandoned, it is the server S and not the intermediary node I_i who abandons the request as stated in Theimer col. 18, lines 38-39 ("S refuses to execute the request)". Hence, Theimer's disclosure does not satisfy the requirement in claim 2 that the request-sending node both sends the request and abandons the request.

Therefore claim 2 is not obvious over Theimer in view of Rackman.

Claim 3

Since claim 3 depends from claim 2, which Appellant has argued *supra* as not being unpatentable under 35. U.S.C. §103(a), Appellant maintains that claim 3 is likewise not unpatentable under 35. U.S.C. §103(a).

Claim 4

Since claim 4 depends from claim 2, which Appellant has argued *supra* as not being unpatentable under 35. U.S.C. §103(a), Appellant maintains that claim 4 is likewise not unpatentable under 35. U.S.C. §103(a).

In addition, Appellant contends that Theimer in view of Rackman does not teach or suggest the following feature of claim 4: "wherein the step of deciding by a user includes selecting the user from the group consisting of the attorney and an attorney-affiliate who is authorized to access the data object". The Examiner argues: "Rackman discloses the users being clients, attorneys or proper counsel (attorney-affiliate)(Col. 7, lines 45-49)". In response, Appellant contend that the Examiner has not provided any argument as to why it is obvious to modify Theimer with the teaching of Rackman with respect to the preceding feature of claim 4. Accordingly, Appellant contends that the Examiner has not established a *prima facie* case of obviousness in relation to claim 4.

Claim 5

Since claim 5 depends from claim 2, which Appellant has argued *supra* as not being unpatentable under 35. U.S.C. §103(a), Appellant maintains that claim 5 is likewise not unpatentable under 35. U.S.C. §103(a).

In addition, Appellant contends that Theimer in view of Rackman does not teach or suggest the following feature of claim 5: "wherein the step of deciding by a user includes selecting the user from the group consisting of the **client and a client-affiliate** who is authorized to access the data object" (emphasis added). The Examiner argues: "Rackman discloses the users

being clients, attorneys or proper counsel (attorney-affiliate)(Col. 7, lines 45-49)". In response, Appellant contends that col. 7, lines 45-49 is totally silent as to access rights of **clients**.

Additionally, the Examiner has not provided any argument as to why it is obvious to modify Theimer with the teaching of Rackman with respect to the preceding feature of claim 5. Accordingly, Appellant contends that the Examiner has not established a *prima facie* case of obviousness in relation to claim 5.

Claim 6

Since claim 6 depends from claim 2, which Appellant has argued *supra* as not being unpatentable under 35. U.S.C. §103(a), Appellant maintains that claim 6 is likewise not unpatentable under 35. U.S.C. §103(a).

In addition, Appellant contends that Theimer in view of Rackman does not teach or suggest the following feature of claim 6: "wherein the user is not authorized to access the data object". Appellant notes that the Examiner has not presented any argument relating to the preceding feature of claim 6. Accordingly, Appellant contends that the Examiner has not established a *prima facie* case of obviousness in relation to claim 6.

Claim 7

Since claim 7 depends from claim 1, which Appellant has argued *supra* as not being unpatentable under 35. U.S.C. §103(a), Appellant maintains that claim 7 is likewise not unpatentable under 35. U.S.C. §103(a).

In addition, Appellant contends that Theimer in view of Rackman does not teach or

suggest the following feature of claim 7: "wherein the providing step further includes providing an input from the attorney as to whether the data object includes the PCOM, and wherein the determining includes a dependence on said input". Appellant note that the Examiner has not presented any argument relating to the preceding feature of claim 7. Accordingly, Appellant contends that the Examiner has not established a *prima facie* case of obviousness in relation to claim 7.

Claim 8

Since claim 8 depends from claim 7, which Appellant has argued *supra* as not being unpatentable under 35. U.S.C. §103(a), Appellant maintains that claim 8 is likewise not unpatentable under 35. U.S.C. §103(a).

In addition, Appellant contends that Theimer in view of Rackman does not teach or suggest the following feature of claim 8: "wherein the providing step further includes ascertaining whether the data object includes a phrase in a search list, and wherein the determining includes a dependence on a result of said ascertaining". Appellant notes that the Examiner has not presented any argument relating to the preceding feature of claim 8. Accordingly, Appellant contends that the Examiner has not established a *prima facie* case of obviousness in relation to claim 8.

Claim 9

Since claim 9 depends from claim 1, which Appellant has argued *supra* as not being unpatentable under 35. U.S.C. §103(a), Appellant maintain that claim 9 is likewise not

unpatentable under 35. U.S.C. §103(a).

In addition, Appellant contends that Theimer in view of Rackman does not teach or suggest the following feature of claim 9: "wherein the determining step includes always determining that the data object includes the PCOM". Appellant notes that the Examiner has not presented any argument relating to the preceding feature of claim 9. Accordingly, Appellant contends that the Examiner has not established a *prima facie* case of obviousness in relation to claim 9.

Claim 10

Since claim 10 depends from claim 1, which Appellant has argued *supra* as not being unpatentable under 35. U.S.C. §103(a), Appellant maintains that claim 10 is likewise not unpatentable under 35. U.S.C. §103(a).

In addition, Appellant contends that Theimer in view of Rackman does not teach or suggest the following feature of claim 10: "wherein the publishing step includes visually displaying the PCOM message". The Examiner argues: "Rackman discloses the file containing attorney-client communications being displayed over a monitor (visually)(Fig. 3, 12)". In response, Appellant contends that col. 7, lines 45-49 of Rackman is totally silent as to visually displaying the PCOM message. The Examiner fails to distinguish between the PCOM message and the PCOM itself, both of which are in claim 1 and therefore also in claim 10. The PCOM message is a message about the PCOM as illustrated in FIGS. 8 and 9 in Appellant's patent application. Thus, a PCOM message is not a PCOM and col. 7, lines 45-49 of Rackman discloses only that a PCOM may be visually displayed. Rackman does not disclose that a PCOM

message may be visually displayed.

Also, the fact is that Theimer's invention functions by execution ACP's and displaying a PCOM message visually does not make the ACP perform better and actually appears to be incompatible with the technique of executing ACPs.

Additionally, the Examiner has not provided any argument as to why it is obvious to modify Theimer with the teaching of Rackman with respect to the preceding feature of claim 10. Accordingly, Appellant contends that the Examiner has not established a *prima facie* case of obviousness in relation to claim 10.

Claim 13

Since claim 13 depends from claim 1, which Appellant has argued *supra* as not being unpatentable under 35. U.S.C. §103(a), Appellant maintains that claim 13 is likewise not unpatentable under 35. U.S.C. §103(a).

In addition, Appellant contends that Theimer in view of Rackman does not teach or suggest the following feature of claim 13: "wherein the deciding step includes a dependence on a decision variable". Appellant notes that the Examiner has not presented any argument relating to the preceding feature of claim 13. Accordingly, Appellant contends that the Examiner has not established a *prima facie* case of obviousness in relation to claim 13.

Claim 14

Since claim 14 depends from claim 13, which Appellant has argued *supra* as not being unpatentable under 35. U.S.C. §103(a), Appellant maintains that claim 14 is likewise not

unpatentable under 35. U.S.C. §103(a).

In addition, Appellant contends that Theimer in view of Rackman does not teach or suggest the following feature of claim 14: "wherein the steps of the data processing method are executed in an executing job, and wherein the decision variable includes a dependence on whether the PCOM message for the data object has been previously published in the executing job". The Examiner argues: "Theimer discloses limitation imposed by the server on the user accesses (previously published)(Col. 13, 32-43)". In response, Appellant contends that col. 13 of Rackman discloses several of Rackman's claims which have no relevance to the preceding feature of claim 14.

In addition, the preceding argument by the Examiner fails to address the decision variable aspect of the preceding feature of claim 14.

Additionally, the Examiner has not provided any argument as to why it is obvious to modify Theimer with the teaching of Rackman with respect to the preceding feature of claim 14. Accordingly, Appellant contends that the Examiner has not established a *prima facie* case of obviousness in relation to claim 14.

Claim 15

Since claim 15 depends from claim 13, which Appellant has argued *supra* as not being unpatentable under 35. U.S.C. §103(a), Appellant maintains that claim 15 is likewise not unpatentable under 35. U.S.C. §103(a).

In addition, Appellant contends that Theimer in view of Rackman does not teach or suggest the following feature of claim 15: "wherein the steps of the data processing method are

executed in an executing job, wherein the decision variable includes a dependence on whether a PCOM message for a second data object has been previously published in the executing job, wherein the second data object is coupled to the server, and wherein the second data object is privileged-linked to the first data object". The Examiner argues: "Theimer discloses limitation imposed by the server on the user accesses (previously published)(Col. 13, 32-43)". In response, Appellant contends that col. 13 of Rackman discloses several of Rackman's claims which have no relevance to the preceding feature of claim 15.

In addition, the preceding argument by the Examiner fails to address the decision variable aspect of the preceding feature of claim 15.

Additionally, the Examiner has not provided any argument as to why it is obvious to modify Theimer with the teaching of Rackman with respect to the preceding feature of claim 15. Accordingly, Appellant contends that the Examiner has not established a *prima facie* case of obviousness in relation to claim 15.

Claim 16

Appellant respectfully contends that claim 16 is not unpatentable over Theimer in view of Rackman, because Theimer in view of Rackman does not teach or suggest each and every feature of claim 16.

As a first example of why Theimer in view of Rackman does not teach or suggest each and every feature of claim 16, Appellant contends that neither Theimer nor Rackman teach or suggest the feature: "status means for making a determination as to whether the data object includes a privileged communication (PCOM) between an attorney and a client of the attorney". As

admitted by the Examiner, Theimer does not disclose anything about a PCOM (i.e., privileged communication) between an attorney and a client of the attorney. As to Rackman, the Examiner's has cited col. 7, lines 31-52 of Rackman which discloses that field 9 of the data record of FIG. 2 contains bits (CF1 and CF2) indicating who is to be permitted to look at a document (i.e., data object of claim 16) that is identified with the data record. The bits CF1 and CF2 do not indicate whether the document is a PCOM but rather denotes a level of confidentiality associated with the document. The level of confidentiality reflected by the bits CF1 and CF2 is not indicative of whether the document is a PCOM. For example, the document may reflect work product rather than a privileged attorney-client communication (see Rackman, col. 1, lines 19-22). In other words, an analysis of the bits CF1 and CF2 is incapable of determining wether the document is a PCOM as required by claim 16, and is capable of only determining the level of confidentiality and associated access control to the document.

As a second example of why Theimer in view of Rackman does not teach or suggest each and every feature of claim 16, Appellant contends that neither Theimer nor Rackman teach or suggest the feature: "publication means for publishing a PCOM message for the data object; and decision means for deciding whether to execute the publication means to publish the PCOM message for the data object, wherein the decision means includes a dependence on the determination made by the status means." As explained *supra* in conjunction with the first example, col. 7, lines 31-52 of Rackman (cited by the Examiner) discloses only the confidentiality level and access control of the document. Rackman does not disclose deciding whether to publish a PCOM message and does not publish a PCOM message. Note that a PCOM message relating to an attorney-client communication is a message that the document is a privileged attorney-client

communication. An illustration of a PCOM message is presented in FIGS. 8 and 9 of Appellant's patent application. There is no disclosure in Rackman of a PCOM message and the Examiner has not presented even a single argument relating to a PCOM message and publication thereof.

As a third example of why Theimer in view of Rackman does not teach or suggest each and every feature of claim 16, Appellant contends that the Examiner's argument for modifying Theimer with Rackman's disclosure of access control to litigation documents is not persuasive. The Examiner argues: "It would have been obvious to one of ordinary skill in the art at the time the invention was made for the permission bits in Theimer to include an confidentiality field identifying that the file contains attorney client communications in order to provide a system for the distribution of confidential documents for attorney's as taught by Rackman (Col. 1, lines 29-59)". In response to the preceding argument by the Examiner, Appellant contends that Theimer is concerned with the controlled delegation of access rights from clients to untrusted intermediaries (see Theimer's Abstract) and accomplishes this objective with access control programs (ACPs) as disclosed in Theimer's abstract and throughout the Theimer disclosure. Rackman does not disclose anything that could be used in Theimer to improve Theimer's invention, inasmuch as the ACPs, as disclosed by Theimer, does everything that needs to be done to accomplish the objectives of Theimer's invention. Additionally, Theimer has no disclosed need specifically for access control to litigation documents, and most certainly has no disclosed need specifically for publishing a PCOM message. Therefore it is not obvious to modify Theimer with the teaching of Rackman as argued by the Examiner.

Based on the preceding arguments, Appellant respectfully maintains that claim 16 is not unpatentable over Theimer in view of Rackman, and that claim 16 is in condition for allowance.

Since claims 17-22 and 24-28 depend from claim 16, Appellant contends that claims 17-22 and 24-28 are likewise in condition for allowance.

Claim 17

Since claim 17 depends from claim 16, which Appellant has argued *supra* as not being unpatentable under 35. U.S.C. §103(a), Appellant maintains that claim 17 is likewise not unpatentable under 35. U.S.C. §103(a).

In addition, Appellant contends that Theimer in view of Rackman does not teach or suggest the following combination of features of claim 17: "election means for deciding whether to abandon a prior request for the access; and enabling means for enabling the access".

The Examiner argues: "Theimer discloses the intermediary (node), after server verification of rights, approving of the request (deciding to abandon or complete request)(Col. 18, lines 14-39)". In response, Appellant contends that the Examiner has not provided any argument as to why it is obvious to modify Theimer with the teaching of Rackman with respect to the preceding feature of claim 17. Accordingly, Appellant contends that the Examiner has not established a *prima facie* case of obviousness in relation to claim 17.

Claim 18

Since claim 18 depends from claim 16, which Appellant has argued *supra* as not being unpatentable under 35. U.S.C. §103(a), Appellant maintains that claim 18 is likewise not unpatentable under 35. U.S.C. §103(a).

In addition, Appellant contends that Theimer in view of Rackman does not teach or

suggest the following feature of claim 18: "wherein the status means includes a dependence on an input from the attorney as to whether the data object includes the privileged communication". Appellant notes that the Examiner has not presented any argument relating to the preceding feature of claim 18.

Accordingly, Appellant contends that the Examiner has not established a *prima facie* case of obviousness in relation to claim 18.

Claim 19

Since claim 19 depends from claim 18, which Appellant has argued *supra* as not being unpatentable under 35. U.S.C. §103(a), Appellant maintains that claim 19 is likewise not unpatentable under 35. U.S.C. §103(a).

In addition, Appellant contends that Theimer in view of Rackman does not teach or suggest the following feature of claim 19: "wherein the status means includes a dependence on a result of a keyphrase search for determining whether the data object includes a phrase in a search list". Appellant notes that the Examiner has not presented any argument relating to the preceding feature of claim 19. Accordingly, Appellant contends that the Examiner has not established a *prima facie* case of obviousness in relation to claim 19.

Claim 20

Since claim 20 depends from claim 16, which Appellant has argued *supra* as not being unpatentable under 35. U.S.C. §103(a), Appellant maintains that claim 20 is likewise not

unpatentable under 35. U.S.C. §103(a).

In addition, Appellant contends that Theimer in view of Rackman does not teach or suggest the following feature of claim 20: "wherein the status means always determines that the data object includes the PCOM". Appellant notes that the Examiner has not presented any argument relating to the preceding feature of claim 20. Accordingly, Appellant contends that the Examiner has not established a *prima facie* case of obviousness in relation to claim 20.

Claim 21

Since claim 21 depends from claim 16, which Appellant has argued *supra* as not being unpatentable under 35. U.S.C. §103(a), Appellant maintains that claim 21 is likewise not unpatentable under 35. U.S.C. §103(a).

In addition, Appellant contends that Theimer in view of Rackman does not teach or suggest the following feature of claim 21: "wherein the publication means includes means for generating a visual display of the PCOM message". The Examiner argues: "Rackman discloses the file containing attorney-client communications being displayed over a monitor (visually)(Fig. 3, 12)". In response, Appellant contends that col. 7, lines 45-49 of Rackman is totally silent as to visually displaying the PCOM message. The Examiner fails to distinguish between the PCOM message and the PCOM itself, both of which are in claim 16 and therefore also in claim 21. The PCOM message is a message about the PCOM as illustrated in FIGS. 8 and 9 in Appellant's patent application. Thus, a PCOM message is not a PCOM and col. 7, lines 45-49 of Rackman discloses only that a PCOM may be visually displayed. Rackman does not disclose that a PCOM message may be visually displayed.

Also, the fact is that Theimer's invention functions by execution ACP's and displaying a PCOM message visually does not make the ACP perform better and actually appears to be incompatible with the technique of executing ACPs.

Additionally, the Examiner has not provided any argument as to why it is obvious to modify Theimer with the teaching of Rackman with respect to the preceding feature of claim 21. Accordingly, Appellant contends that the Examiner has not established a *prima facie* case of obviousness in relation to claim 21.

Claim 24

Since claim 24 depends from claim 16, which Appellant has argued *supra* as not being unpatentable under 35. U.S.C. §103(a), Appellant maintains that claim 24 is likewise not unpatentable under 35. U.S.C. §103(a).

In addition, Appellant contends that Theimer in view of Rackman does not teach or suggest the following feature of claim 24: "wherein the decision means further includes a dependence on a decision variable". Appellant notes that the Examiner has not presented any argument relating to the preceding feature of claim 24. Accordingly, Appellant contends that the Examiner has not established a *prima facie* case of obviousness in relation to claim 24.

Claim 25

Since claim 25 depends from claim 24, which Appellant has argued *supra* as not being unpatentable under 35. U.S.C. §103(a), Appellant maintains that claim 25 is likewise not unpatentable under 35. U.S.C. §103(a).

In addition, Appellant contends that Theimer in view of Rackman does not teach or suggest the following feature of claim 25: "an executing job; and prior-publication means for making a determination as to whether the publication means has previously published in the executing job the PCOM message for the data object, wherein the decision variable includes a dependence on the determination made by the prior-publication means". The Examiner argues: "Theimer discloses limitation imposed by the server on the user accesses (previously published)(Col. 13, 32-43)". In response, Appellant contends that col. 13 of Rackman discloses several of Rackman's claims which have no relevance to the preceding feature of claim 25.

In addition, the preceding argument by the Examiner fails to address the decision variable aspect of the preceding feature of claim 25.

Additionally, the Examiner has not provided any argument as to why it is obvious to modify Theimer with the teaching of Rackman with respect to the preceding feature of claim 25. Accordingly, Appellant contends that the Examiner has not established a *prima facie* case of obviousness in relation to claim 25.

Claim 26

Since claim 26 depends from claim 24, which Appellant has argued *supra* as not being unpatentable under 35. U.S.C. §103(a), Appellant maintains that claim 26 is likewise not unpatentable under 35. U.S.C. §103(a).

In addition, Appellant contends that Theimer in view of Rackman does not teach or suggest the following feature of claim 26: "a second data object within the computer system, where the second data object includes a second PCOM between the attorney and the client, and

wherein the second data object is privileged-linked to the first data object; an executing job; and prior-publication means for making a determination as to whether a PCOM message for the second data object has been previously published in the executing job, wherein the decision variable includes a dependence on the determination made by the prior-publication means". The Examiner argues: "Theimer discloses limitation imposed by the server on the user accesses (previously published)(Col. 13, 32-43)". In response, Appellant contends that col. 13 of Rackman discloses several of Rackman's claims which have no relevance to the preceding feature of claim 26.

In addition, the preceding argument by the Examiner fails to address the decision variable aspect of the preceding feature of claim 26. Also, the preceding argument by the Examiner fails to address the second data object aspect of the preceding feature of claim 26.

Additionally, the Examiner has not provided any argument as to why it is obvious to modify Theimer with the teaching of Rackman with respect to the preceding feature of claim 26. Accordingly, Appellant contends that the Examiner has not established a *prima facie* case of obviousness in relation to claim 26.

Claim 27

Since claim 27 depends from claim 16, which Appellant has argued *supra* as not being unpatentable under 35. U.S.C. §103(a), Appellant maintains that claim 27 is likewise not unpatentable under 35. U.S.C. §103(a).

In addition, Appellant contends that Theimer in view of Rackman does not teach or suggest the following feature of claim 27: "a server coupled to the data object; an attorney node

coupled to the server, for enabling the attorney to interact with the data object; and a client node coupled to the server, for enabling the client to interact with the data object.". Appellant notes that the Examiner has not presented any argument relating to the preceding feature of claim 27 . Accordingly, Appellant contends that the Examiner has not established a *prima facie* case of obviousness in relation to claim 27.

Claim 28

Since claim 28 depends from claim 27, which Appellant has argued *supra* as not being unpatentable under 35. U.S.C. §103(a), Appellant maintains that claim 28 is likewise not unpatentable under 35. U.S.C. §103(a).

In addition, Appellant contends that Theimer in view of Rackman does not teach or suggest the following feature of claim 28: "wherein the server and the client are in accordance with a client server-model within a distributed computing system selected from the group consisting of a world wide web of the Internet, a wide area network, and a local area network". Appellant notes that the Examiner has not presented any argument relating to the preceding feature of claim 28. Accordingly, Appellant contends that the Examiner has not established a *prima facie* case of obviousness in relation to claim 28.

Claim 29

Appellant respectfully contends that claim 29 is not unpatentable over Theimer in view of Rackman, because Theimer in view of Rackman does not teach or suggest each and every feature of claim 29.

As a first example of why Theimer in view of Rackman does not teach or suggest each and every feature of claim 29, Appellant contends that neither Theimer nor Rackman teach or suggest the feature: "status software for making a determination as to whether the data object includes a privileged communication (PCOM) between an attorney and a client of the attorney". As admitted by the Examiner, Theimer does not disclose anything about a PCOM (i.e., privileged communication) between an attorney and a client of the attorney. As to Rackman, the Examiner's has cited col. 7, lines 31-52 of Rackman which discloses that field 9 of the data record of FIG. 2 contains bits (CF1 and CF2) indicating who is to be permitted to look at a document (i.e., data object of claim 16) that is identified with the data record. The bits CF1 and CF2 do not indicate whether the document is a PCOM but rather denotes a level of confidentiality associated with the document. The level of confidentiality reflected by the bits CF1 and CF2 is not indicative of whether the document is a PCOM. For example, the document may reflect work product rather than a privileged attorney-client communication (see Rackman, col. 1, lines 19-22). In other words, an analysis of the bits CF1 and CF2 is incapable of determining wether the document is a PCOM as required by claim 29, and is capable of only determining the level of confidentiality and associated access control to the document.

As a second example of why Theimer in view of Rackman does not teach or suggest each and every feature of claim 29, Appellant contends that neither Theimer nor Rackman teach or suggest the feature: "publication software for publishing a PCOM message for the data object; and decision software for deciding whether to execute the publication software to publish the PCOM message for the data object, wherein the decision software includes a dependence on the determination made by the status software." As explained *supra* in conjunction with the first

example, col. 7, lines 31-52 of Rackman (cited by the Examiner) discloses only the confidentiality level and access control of the document. Rackman does not disclose deciding whether to publish a PCOM message and does not publish a PCOM message. Note that a PCOM message relating to an attorney-client communication is a message that the document is a privileged attorney-client communication. An illustration of a PCOM message is presented in FIGS. 8 and 9 of Appellant's patent application. There is no disclosure in Rackman of a PCOM message and the Examiner has not presented even a single argument relating to a PCOM message and publication thereof.

As a third example of why Theimer in view of Rackman does not teach or suggest each and every feature of claim 29, Appellant contends that the Examiner's argument for modifying Theimer with Rackman's disclosure of access control to litigation documents is not persuasive. The Examiner argues: "It would have been obvious to one of ordinary skill in the art at the time the invention was made for the permission bits in Theimer to include an confidentiality field identifying that the file contains attorney client communications in order to provide a system for the distribution of confidential documents for attorney's as taught by Rackman (Col. 1, lines 29-59)". In response to the preceding argument by the Examiner, Appellant contends that Theimer is concerned with the controlled delegation of access rights from clients to untrusted intermediaries (see Theimer's Abstract) and accomplishes this objective with access control programs (ACPs) as disclosed in Theimer's abstract and throughout the Theimer disclosure. Rackman does not disclose anything that could be used in Theimer to improve Theimer's invention, inasmuch as the ACPs, as disclosed by Theimer, does everything that needs to be done to accomplish the objectives of Theimer's invention. Additionally, Theimer has no disclosed need specifically for access control to litigation documents, and most certainly has no disclosed

need specifically for publishing a PCOM message. Therefore it is not obvious to modify Theimer with the teaching of Rackman as argued by the Examiner.

Based on the preceding arguments, Appellant respectfully maintains that claim 29 is not unpatentable over Theimer in view of Rackman, and that claim 29 is in condition for allowance. Since claim 30 depends from claim 29, Appellant contends that claim 30 is likewise in condition for allowance.

Claim 30

Since claim 30 depends from claim 29, which Appellant has argued *supra* as not being unpatentable under 35. U.S.C. §103(a), Appellant maintains that claim 30 is likewise not unpatentable under 35. U.S.C. §103(a).

In addition, Appellant contends that Theimer in view of Rackman does not teach or suggest the following combination of features of claim 30: "election software for deciding whether to abandon a prior request for the access; and enabling software for enabling the access to the data object".

The Examiner argues: "Theimer discloses the intermediary (node), after server verification of rights, approving of the request (deciding to abandon or complete request)(Col. 18, lines 14-39)". In response, Appellant contends that the Examiner has not provided any argument as to why it is obvious to modify Theimer with the teaching of Rackman with respect to the preceding feature of claim 30. Accordingly, Appellant contends that the Examiner has not established a *prima facie* case of obviousness in relation to claim 30.

Claim 31

Appellant respectfully contends that claim 31 is not unpatentable over Theimer in view of Rackman, because Theimer in view of Rackman does not teach or suggest each and every feature of claim 31.

As a first example of why Theimer in view of Rackman does not teach or suggest each and every feature of claim 31, Appellant contends that neither Theimer nor Rackman teach or suggest the feature: "publication means for publishing the PCOM message for the data object; and decision means for deciding whether to execute the publication means to publish the PCOM message for the data object, wherein the decision means includes a dependence on the determination made by the status means". In relation to the preceding feature of claim 31, the Examiner's has cited col. 7, lines 31-52 of Rackman which discloses that field 9 of the data record of FIG. 2 contains bits (CF1 and CF2) indicating who is to be permitted to look at a document (i.e., data object of claim 16) that is identified with the data record. The bits CF1 and CF2 denotes a level of confidentiality associated with the document. Appellants contend that col. 7, lines 31-52 of Rackman does not disclose means for publishing a PCOM message and does not publishing a PCOM message. Note that a PCOM message relating to a message indicating that communication is a privileged communication. An illustration of a PCOM message is presented in FIGS. 8 and 9 of Appellant's patent application. There is no disclosure in Rackman of a PCOM message and the Examiner has not presented even a single argument relating to a PCOM message and publication thereof.

As a second example of why Theimer in view of Rackman does not teach or suggest each and every feature of claim 31, Appellant contends that the Examiner's argument for modifying

Theimer with Rackman's disclosure of access control to litigation documents is not persuasive. The Examiner argues: "It would have been obvious to one of ordinary skill in the art at the time the invention was made for the permission bits in Theimer to include an confidentiality field identifying that the file contains attorney client communications in order to provide a system for the distribution of confidential documents for attorney's as taught by Rackman (Col. 1, lines 29-59)". In response to the preceding argument by the Examiner, Appellant contends that Theimer is concerned with the controlled delegation of access rights from clients to untrusted intermediaries (see Theimer's Abstract) and accomplishes this objective with access control programs (ACPs) as disclosed in Theimer's abstract and throughout the Theimer disclosure. Rackman does not disclose anything that could be used in Theimer to improve Theimer's invention, inasmuch as the ACPs, as disclosed by Theimer, does everything that needs to be done to accomplish the objectives of Theimer's invention. Additionally, Theimer has no disclosed need specifically for publishing a PCOM message. Therefore it is not obvious to modify Theimer with the teaching of Rackman as argued by the Examiner.

Based on the preceding arguments, Appellant respectfully maintains that claim 31 is not unpatentable over Theimer in view of Rackman, and that claim 31 is in condition for allowance. Since claims 32-35 depend from claim 31, Appellant contends that claims 32-35 are likewise in condition for allowance.

Claim 32

Since claim 32 depends from claim 31, which Appellant has argued *supra* as not being unpatentable under 35. U.S.C. §103(a), Appellant maintains that claim 32 is likewise not

unpatentable under 35. U.S.C. §103(a).

In addition, Appellant contends that Theimer in view of Rackman does not teach or suggest the following combination of features of claim 32: "election means for deciding whether to abandon a prior request for the access, after execution of the publication means; and enabling means for enabling the access to the data object, after execution of the election means".

The Examiner argues: "Theimer discloses the intermediary (node), after server verification of rights, approving of the request (deciding to abandon or complete request)(Col. 18, lines 14-39)". In response, Appellant contends that the Examiner has not provided any argument as to why it is obvious to modify Theimer with the teaching of Rackman with respect to the preceding feature of claim 32. Accordingly, Appellant contends that the Examiner has not established a *prima facie* case of obviousness in relation to claim 32.

Claim 33

Since claim 33 depends from claim 31, which Appellant has argued *supra* as not being unpatentable under 35. U.S.C. §103(a), Appellant maintains that claim 33 is likewise not unpatentable under 35. U.S.C. §103(a).

In addition, Appellant contends that Theimer in view of Rackman does not teach or suggest the following feature of claim 33: "wherein the PCOM between a first person and a second person includes a PCOM between a psychotherapist and a client of the psychotherapist". The Examiner argues: "it would have been obvious for the communications within the files to be between any set of person whom would want their communications kept confidential". In response, Appellant contends that the Examiner's argument has allegedly addressed only whether it is

obvious to have a PCOM between a psychotherapist and a client of the psychotherapist. Appellant contends that the Examiner's argument has not addressed whether it would be obvious to have status means for making a determination as to whether the data object includes a PCOM between a psychotherapist and a client of the psychotherapist. Accordingly, Appellant contends that the Examiner has not established a *prima facie* case of obviousness in relation to claim 33.

Claim 34

Since claim 34 depends from claim 31, which Appellant has argued *supra* as not being unpatentable under 35. U.S.C. §103(a), Appellant maintains that claim 34 is likewise not unpatentable under 35. U.S.C. §103(a).

In addition, Appellant contends that Theimer in view of Rackman does not teach or suggest the following feature of claim 34: "wherein the PCOM between a first person and a second person includes a PCOM between a physician and a patient of the physician". The Examiner argues: "it would have been obvious for the communications within the files to be between any set of person whom would want their communications kept confidential". In response, Appellant contends that the Examiner's argument has allegedly addressed only whether it is obvious to have a PCOM between a physician and a patient of the physician. Appellant contends that the Examiner's argument has not addressed whether it would be obvious to have status means for making a determination as to whether the data object includes a PCOM between a physician and a patient of the physician. Accordingly, Appellant contends that the Examiner has not established a *prima facie* case of obviousness in relation to claim 34.

Claim 35

Since claim 35 depends from claim 31, which Appellant has argued *supra* as not being unpatentable under 35. U.S.C. §103(a), Appellant maintains that claim 35 is likewise not unpatentable under 35. U.S.C. §103(a).

In addition, Appellant contends that Theimer in view of Rackman does not teach or suggest the following feature of claim 35: "wherein the PCOM between a first person and a second person includes a PCOM between a husband and a wife of the husband". The Examiner argues: "it would have been obvious for the communications within the files to be between any set of person whom would want their communications kept confidential". In response, Appellant contends that the Examiner's argument has allegedly addressed only whether it is obvious to have a PCOM between a husband and a wife of the husband. Appellant contends that the Examiner's argument has not addressed whether it would be obvious to have status means for making a determination as to whether the data object includes a PCOM between a husband and a wife of the husband. Accordingly, Appellant contends that the Examiner has not established a *prima facie* case of obviousness in relation to claim 35.

Issue 2

CLAIMS 11 AND 22 UNDER ARE NOT UNPATENTABLE UNDER 35 U.S.C. §103(a) OVER THEIMER (U.S. PATENT NO. 5,649,099) IN VIEW OF RACKMAN (U.S. PATENT NO. 5,903,646), AND FURTHER IN VIEW OF KEITHLEY (U.S. PATENT NO. 5,584,025)

The Examiner rejected claims 11 and 22 under 35 U.S.C. §103(a) as allegedly being unpatentable over Theimer (U.S. Patent No. 5,649,099) in view of Rackman (U.S. Patent No. 5,903,646), and further in view of Keithley (U.S. Patent No. 5,584,025).

Since claims 11 and 22 depend from claims 1 and 16, respectively, which Appellant has argued *supra* as not being unpatentable under 35. U.S.C. §103(a), Appellant maintains that claims 11 and 22 are likewise not unpatentable under 35. U.S.C. §103(a).

In addition, Appellant contends that Theimer in view of Rackman does not teach or suggest the following feature of claims 11 and 22: "wherein the publishing step includes articulating the PCOM message by sound" (claim 11); and "wherein the publication means includes means for generating an audio articulation of the PCOM message" (claim 22).

The Examiner argues: "Keithley discloses a server that distributes multimedia including video, and audio (Col. 5, lines 26-34). It would have been obvious to one of ordinary skill in the art for the resources (data objects) of Theimer to be audio files because distribution of audio files via servers is well known in the art". In response, Appellant contends that the Examiner's argument for modifying Theimer by Keithley's teaching is not persuasive, since the fact that audio files via servers are known is not a reason why one of ordinary skill in the art would incorporate the teaching of Keithley into Theimer's invention. The fact is that Theimer's invention functions by execution ACP's and displaying a PCOM message by sound does not make the ACP perform

better and actually appears to be incompatible with the technique of executing ACPs.

In addition with respect to claims 11 and 22, Appellant respectfully maintains that the Examiner's argument with respect to Keithly is an improper modification of the secondary reference of Rackman. The Examiner argues that the primary reference of Theimer discloses a method for delegating access rights through intermediaries and access control programs (ACPs). The Examiner also argues that the secondary reference of Rackman has modified the primary reference of Theimer, by alleging that Rackman teaches or suggests PCOMs and PCOM messages. The Examiner additionally argues that the secondary reference of Keithly has modified the secondary reference of Rackman, by alleging that Fremont teaches or suggests that the PCOM message could be articulated by sound. Appellant maintains that it is improper to argue that a claim feature is taught or suggested by a secondary reference through modification of another secondary reference. If the Examiner could modify a secondary reference in the preceding manner, then the Examiner would be able to show the existence of any element or feature of any claim merely by chaining a sufficient number of secondary references together in the preceding manner. Accordingly, Appellant respectfully maintains that the rejection of claim 11 and 22 under 35 U.S.C. §103(a) is improper and should be reversed.

SUMMARY

In summary, Appellant respectfully requests reversal of the September 9, 2003 Office Action rejection of claims 1-11, 13-22 and 24-35.

Respectfully submitted,

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPENDIX - CLAIMS ON APPEAL

1. A data processing method, comprising the steps of:

providing a server, a data object coupled to the server, and a node coupled to the server;

sending a request from the node to the server for access of the data object by the node,

checking for whether the requested access is security blocked;

if the requested access is not security blocked, determining whether the data object includes a privileged communication (PCOM) between an attorney and a client of the attorney;

if the data object includes the PCOM, deciding whether a PCOM message for the data object is to be published at the node; and

if the PCOM message is to be published, publishing the PCOM message at the node.

2. The data processing method of claim 1, further comprising after publishing the PCOM

message:

deciding by a user at the node whether to abandon the request for said access;

if deciding to abandon, user-abandoning the request; and

if deciding not to abandon, user-electing not to abandon and enabling said access.

3. The data processing method of claim 2, further comprising after enabling said access, user-accessing the data object including selecting from the group consisting of reading the data object, editing the data object, and combinations thereof.

4. The data processing method of claim 2, wherein the step of deciding by a user includes selecting the user from the group consisting of the attorney and an attorney-affiliate who is authorized to access the data object.

5. The data processing method of claim 2, wherein the step of deciding by a user includes selecting the user from the group consisting of the client and a client-affiliate who is authorized to access the data object.

6. The data processing method of claim 2, wherein the user is not authorized to access the data object.

7. The data processing method of claim 1, wherein the providing step further includes providing an input from the attorney as to whether the data object includes the PCOM, and wherein the

determining includes a dependence on said input.

8. The data processing method of claim 7, wherein the providing step further includes ascertaining whether the data object includes a phrase in a search list, and wherein the determining includes a dependence on a result of said ascertaining.

9. The data processing method of claim 1, wherein the determining step includes always determining that the data object includes the PCOM.

10. The data processing method of claim 1, wherein the publishing step includes visually displaying the PCOM message.

11. The data processing method of claim 1, wherein the publishing step includes articulating the PCOM message by sound.

12. The data processing method of claim 1, wherein the publishing step includes displaying the PCOM message including identifying all persons authorized to access the PCOM.

13. The data processing method of claim 1, wherein the deciding step includes a dependence on a decision variable.

14. The data processing method of claim 13, wherein the steps of the data processing method are

executed in an executing job, and wherein the decision variable includes a dependence on whether the PCOM message for the data object has been previously published in the executing job.

15. The data processing method of claim 13, wherein the steps of the data processing method are executed in an executing job, wherein the decision variable includes a dependence on whether a PCOM message for a second data object has been previously published in the executing job, wherein the second data object is coupled to the server, and wherein the second data object is privileged-linked to the first data object.

16. A data processing system, comprising:

a data object;

security means for determining whether an access to the data object is security blocked;

status means for making a determination as to whether the data object includes a privileged communication (PCOM) between an attorney and a client of the attorney;

publication means for publishing a PCOM message for the data object; and

decision means for deciding whether to execute the publication means to publish the PCOM message for the data object, wherein the decision means includes a dependence on the determination made by the status means.

17. The data processing system of claim 16, further comprising:

election means for deciding whether to abandon a prior request for the access; and

enabling means for enabling the access.

18. The data processing system of claim 16, wherein the status means includes a dependence on an input from the attorney as to whether the data object includes the privileged communication.

19. The data processing system of claim 18, wherein the status means includes a dependence on a result of a keyphrase search for determining whether the data object includes a phrase in a search list.

20. The data processing system of claim 16, wherein the status means always determines that the data object includes the PCOM.

21. The data processing system of claim 16, wherein the publication means includes means for generating a visual display of the PCOM message.

22. The data processing system of claim 16, wherein the publication means includes means for generating an audio articulation of the PCOM message.

23. The data processing system of claim 16, wherein the publication means includes means for displaying an identification of all persons authorized to read the PCOM.

24. The data processing system of claim 16, wherein the decision means further includes a dependence on a decision variable.

25. The data processing system of claim 24, further comprising:

an executing job; and

prior-publication means for making a determination as to whether the publication means has previously published in the executing job the PCOM message for the data object, wherein the decision variable includes a dependence on the determination made by the prior-publication means.

26. The data processing system of claim 24, further comprising:

a second data object within the computer system, where the second data object includes a second PCOM between the attorney and the client, and wherein the second data object is privileged-linked to the first data object;

an executing job; and

prior-publication means for making a determination as to whether a PCOM message for the second data object has been previously published in the executing job, wherein the decision variable includes a dependence on the determination made by the prior-publication means.

27. The data processing system of claim 16, further comprising:

a server coupled to the data object;

an attorney node coupled to the server, for enabling the attorney to interact with the data object; and

a client node coupled to the server, for enabling the client to interact with the data object.

28. The data processing system of claim 27, wherein the server and the client are in accordance with a client server-model within a distributed computing system selected from the group consisting of a world wide web of the Internet, a wide area network, and a local area network.

29. A computer program product, comprising:

a recordable medium; and

computer software recorded on the recordable medium, wherein said computer software includes:

security software for determining whether an access to a data object is security blocked;

status software for making a determination as to whether the data object includes a privileged communication (PCOM) between an attorney and a client of the attorney;

publication software for publishing a PCOM message for the data object; and

decision software for deciding whether to execute the publication software to publish the PCOM message for the data object, wherein the decision software includes a dependence on the determination made by the status software.

30. The computer program product of claim 29, further comprising:

election software for deciding whether to abandon a prior request for the access; and

enabling software for enabling the access to the data object.

31. A data processing system for publishing a privileged communication (PCOM) message,

comprising:

a data object;

security means for determining whether an access to the data object is security blocked;

status means for making a determination as to whether the data object includes a PCOM between a first person and a second person;

publication means for publishing the PCOM message for the data object; and

decision means for deciding whether to execute the publication means to publish the PCOM message for the data object, wherein the decision means includes a dependence on the determination made by the status means.

32. The data processing system of claim 31, further comprising:

election means for deciding whether to abandon a prior request for the access, after execution of the publication means; and

enabling means for enabling the access to the data object, after execution of the election means.

33. The data processing system of claim 31, wherein the PCOM between a first person and a second person includes a PCOM between a psychotherapist and a client of the psychotherapist.

34. The data processing system of claim 31, wherein the PCOM between a first person and a second person includes a PCOM between a physician and a patient of the physician.

55. The data processing system of claim 31, wherein the PCOM between a first person and a second person includes a PCOM between a husband and a wife of the husband.